REMARKS

Reconsideration of the above-identified application in view of the present amendment is respectfully requested. By the present amendment and claims 2, 3, 7, 9, 11, 20-22, and 24-30 have been amended. Claims 1-3 and 5-32 are pending in the application.

Claims 2, 3, 7, 9, 11, 20-22, and 24-30 have been amended in accordance with suggestions made be Examiner Dunn in a telephone conversation on November 7, 2003 in order to traverse the rejections under 35 U.S.C. § 101. Accordingly, the rejections under 35 U.S.C. § 101 should be withdrawn. Claim 29 is therefore allowable, as indicated in the Office Action.

Claim 30 recites an inflatable vehicle occupant protection device constructed and arranged for engaging an occupant's head positioned against the side structure and moving the occupant's head away from the side structure. The inflatable vehicle occupant protection device is adapted to inflate between the side structure of the vehicle and the occupant's head.

In the Office Action, claim 30 was rejected under 35 U.S.C. § 102(e) as being anticipated by each of Nakajima et al. (US 6,334,626 B2), White, Jr. et al. (US 6,179,324 B1), and Kato et al. (US 6,082,761). In each rejection, the Office Action stated that the protection devices taught by the references would inherently engage an occupant's head positioned against the side structure, move the occupant's

head away from the side structure, and inflate between the side structure and the occupant's head.

The rejections of claim 30 are based on the inherent functionality of the cited references. Anticipation, however, requires a single prior art reference that discloses each element of the claim. *W.L. Gore & Associates v. Garlock, Inc.*, 220 UPSQ 303, 313 (Fed. Cir. 1983) *cert. denied* 469 U.S. 851 (1984) (emphasis added). Arguments that are based on inherent properties cannot stand when there is no supporting teaching in the prior art. *In re Spormann*, 363 F.2d 444, 150 USPQ 449 (C.C.P.A. 1966).

Nakajima, White and Kato do not provide any teaching whatsoever regarding how their respective protection devices would perform in the situation where the occupant's head is positioned against the side structure at the time the protection device is inflated. The assertion that the devices in Nakajima, White, and Kato would inherently perform like the protection device of the present invention is pure speculation. One could just as easily speculate that the protection devices disclosed in Nakajima, White, and Kato would inflate inboard of the occupant's head. It is very clear that Nakajima, White, and Kato do not disclose each element of claim 30. Therefore, the rejections of claim 30 under 35 U.S.C. § 102(e) should be withdrawn.

For the reasons stated above, it is respectfully submitted that claim 30 is allowable and allowance of claim 30 is respectfully requested. Claims 31 and 32 depend from claim

30 and are therefore allowable as depending from allowable claims as well as for the specific features recited therein.

Independent claims 1, 20-22, and 24-27 all recite that the protection device is rolled-up in an outboard direction into a stored condition. The protection device initially inflates and unrolls at an angle toward the vehicle side structure. The combination of rolling the curtain in an outboard direction and positioning the curtain to initially deploy toward the vehicle side structure causes the curtain to engage an occupant's head positioned against the side structure and move the occupant's head away from the side structure. This is not taught or suggested in the prior art cited in the Office Action.

In the Office Action, independent claims 1, 20-22, and 24-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over White in view of Hoeft et al. (US 2002/0158450) and as being unpatentable over Kato in view of Hoeft. It is noted that the neither of these rejections provide any substantive basis for the rejection of claim 28.

White, Kato and Hoeft do not provide any teaching whatsoever regarding how their respective protection devices would perform in the situation where the occupant's head is positioned against the side structure at the time the protection device is inflated. White and Kato don't even teach or suggest rolling the protection device in an outboard direction.

In Hoeft, the roll direction doesn't matter, i.e., the protection device can be rolled adjacent the first side of the

protection device (i.e., inboard) or adjacent the second side of the protection device (i.e., outboard). (see paragraph [0035]). Hoeft clearly does not recognize the importance of an inboard roll to help ensure proper deployment in the situation where an occupant's head is positioned against the side structure when the protection device is inflated.

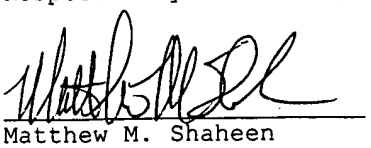
Also, in Hoeft, in addition to rolling the curtain, the protection device is folded in an inboard direction so that the protection device initially inflates away from the roof rail and trim components, i.e., in an inboard direction. (see paragraph [0037]). The teachings of Hoeft to initially inflate the protection device inboard are in direct conflict with the teachings of the present invention. Therefore, Hoeft actually teaches away from the present invention. Accordingly, the rejection under 35 U.S.C. § 103(a) should be withdrawn.

For the reasons stated above, it is respectfully submitted that independent claims 1, 20-22, and 24-28 are allowable and allowance of these claims is respectfully requested. Claims 2, 3, and 5-19, depending from claim 1, and claim 23, depending from claim 22, are therefore allowable as depending from allowable claims as well as for the specific features recited therein.

In view of the foregoing, it is respectfully submitted that the above identified application is in condition for allowance, and allowance of the above-identified application is respectfully requested.

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,



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